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11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**  
13

14 STEPHEN TURNER, an individual,  
15 Plaintiff,

16 vs.

17 NEW FULLERTON CAR WASH, a  
18 California corporation,  
19 Defendants.  
20

Case No.: 2:24-cv-1557

**COMPLAINT FOR**

**(1) VIOLATION OF THE UNRUH  
CIVIL RIGHTS ACT  
(CALIFORNIA CIVIL CODE  
§§ 51, 52);**

**(2) VIOLATIONS OF THE  
AMERICANS WITH  
DISABILITIES ACT OF 1990**

**I.**  
**SUMMARY**

1. This is a civil rights action by plaintiff Stephen Turner (“Plaintiff”) for discrimination at the building, structure, facility, complex, property, land, development, and/or surrounding business complex bearing the legal address of 800 N Harbor Blvd, Fullerton, CA 92832-1522, Orange County (APN: 029-021-25) (“Property”). Plaintiff often frequents the area as he enjoys the dinning and shopping options nearby. On this particular occasion, he desired to patronize the Fullerton Car Wash located at the Property.

2. Plaintiff seeks damages, injunctive and declaratory relief, attorney’s fees and costs pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101, et seq.) and related California statutes<sup>1</sup> against Defendant, the owner NEW FULLERTON CAR WASH, a California corporation (“Defendant”).

**II.**  
**JURISDICTION**

3. This Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1343 for ADA claims.

4. Supplemental jurisdiction for claims brought under parallel California law – arising from the same nucleus of operative facts – is predicated on 28 U.S.C § 1367.

5. Plaintiff’s claims are authorized by 28 U.S.C. §§ 2201 and 2202.

**III.**  
**VENUE**

6. All actions complained of herein take place within the jurisdiction of the United States District Court, Central District of California, and venue is invoked pursuant to 28 U.S.C. § 1391(b), (c).

**IV.**

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<sup>1</sup> Plaintiff is not currently asserting a cause of action under California Civil Code § 55, but may amend his complaint at a later time upon discovery of facts which give rise to such a claim.

**PARTIES**

7. Defendant is or was at the time of the incident, the owner, operator, lessor and/or lessee of the Property, and consists of a person (or persons), firm, company, and/or corporation.

8. Plaintiff is a paraplegic, and as a result is unable to walk or stand, and thus requires a use of a wheelchair at all times when traveling in public. Plaintiff is “physically disabled” as defined by all applicable California and United States laws, and a member of the public whose rights are protected by these laws. Plaintiff is not a high frequency litigant as that term is defined under California Code of Civil Procedure § 425.55(b). In the previous 12 months Plaintiff has followed nine accessibility lawsuits (not including this one).

**V.**

**FACTS**

9. On or about December 3, 2023, Plaintiff attempted to patronize the Property. The Property is a sales or retail establishment, open to the public, which is intended for nonresidential use and whose operation affects commerce.

10. Plaintiff visited the Property and encountered barriers (both physical and intangible) that interfered with – if not outright denied – Plaintiff’s ability to use and enjoy the goods, services, privileges and accommodations offered at the facility. To the extent known by Plaintiff, the barriers at the Property included, but are not limited to the following:

- a. There are no accessible signs directing persons with disabilities to accessible routes and /or accessible entrances. This makes it difficult for Plaintiff to determine where to travel to ensure he is not met with accessible barriers.
- b. To access the sidewalks, Plaintiff must traverse up a curb that is too steep. Plaintiff cannot comfortably travel up the curb on his own as it is too dangerous .

- 1 c. There are no accessible pedestrian routes connecting the various building  
2 on the same property site. For example, pathways can be blocked by  
3 parked cars thus forcing Plaintiff to travel behind cars to access the goods  
4 and services at the property.
- 5 d. Accessible parking spaces also do not lead to accessible pathways.  
6 Instead, parking spaces require plaintiff to travel through unmarked paths  
7 that do not lead to curb cuts.

8 **11.** These barriers to access are listed without prejudice to Plaintiff citing  
9 additional barriers to access after inspection by Plaintiff's access consultant, per the  
10 9<sup>th</sup> Circuits standing standards under *Doran v. 7-Eleven, Inc.* 524 F.3d 1034 (9<sup>th</sup> Cir.  
11 2008). These barriers prevented Plaintiff from enjoying full and equal access to the  
12 Property.

13 **12.** Plaintiff thus experienced difficult, discomfort and embarrassment as a  
14 result of the accessible barriers he encountered. He continues to be deterred from  
15 visiting the Property because of the future threats of injury created by these barriers.  
16 Plaintiff would return to the Property once the barriers are corrected as the Fullerton  
17 Car Wash is located at the Property is located within 20 minutes of his residence and  
18 this is a business that Plaintiff would like to patronize. Within 6 months of the  
19 correction or removal of barriers Plaintiff would return to the Property to not only  
20 patronize the business, but also to ensure that the accessible barriers have been  
21 properly removed.

22 **13.** Defendant knew that these elements and areas of the Property were  
23 inaccessible, violate state and federal law, and interfere with (or deny) access to the  
24 physically disabled. Moreover, Defendant has the financial resources to remove these  
25 barriers from the Property (without much difficult or expense), and make the Property  
26 accessible to the physically disabled. To date, however, the Defendant refuses to  
27 remove those barriers.  
28

1           **14.** At all relevant times, Defendant has possessed and enjoyed sufficient  
 2 control and authority to modify the Property to remove impediments to wheelchair  
 3 access and to comply with the Americans with Disabilities Act Accessibility  
 4 Guidelines and Title 24 regulations. Defendant has not removed such impediments  
 5 and has not modified the Property to conform to accessibility standards.

6  
 7 **VI.**

8 **FIRST CAUSE OF ACTION: VIOLATION OF CALIFORNIA LAW**  
 9 **INCLUDING: THE UNRUH ACT, CIVIL CODE §§ 51, 52 AND THE**  
 10 **AMERICANS WITH DISABILITIES ACT AS INCORPORATED BY CIVIL**  
 11 **CODE SECTION 51(f)**

12           **15.** Plaintiff incorporates the allegations contained in paragraphs 1 through  
 13 14 for this claim and incorporates them herein.

14           **16.** At all times relevant to this complaint, California Civil Code § 51 has  
 15 provided that physically disabled persons are free and equal citizens of the state,  
 16 regardless of disability or medical condition:

17 All persons within the jurisdiction of this state are free and equal, and  
 18 no matter what their sex, race, color, religion, ancestry, national  
 19 origin, disability, or medical condition are entitled to the full and  
 20 equal accommodations, advantages, facilities, privileges, or services  
 21 in all business establishments of every kind whatsoever. Cal. Civ.  
 22 Code § 51(b).

23           **17.** California Civil Code § 52 provides that the discrimination by Defendant  
 24 against Plaintiff on the basis of his disabilities constitutes a violation of the anti-  
 25 discrimination provisions of §§ 51 and 52.

26           **18.** Defendant's discrimination constitutes a separate and distinct violation of  
 27 California Civil Code § 52 which provides that:

28 Whoever denies, aids or incites a denial, or makes any discrimination  
 or distinction contrary to section 51, 51.5 or 51.6 is liable for each and

every offense for the actual damages, and any amount that may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than four thousand dollars (\$4,000) and any attorney's fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51, 51.5 or 51.6.

19. Plaintiff continues to be deterred from visiting the Subject Property based upon the existence of the accessible barriers. In addition to the instance of deterrence occurring on December 2023, Plaintiff is entitled to \$4,000.00 in statutory damages for each additional occurrence of discrimination under California Civil Code § 52.

20. Any violation of the Americans with Disabilities Act of 1990 (as pled in the Third Cause of Action) constitutes a violation of California Civil Code § 51(f) thus independently justifying an award of damages and injunctive relief pursuant to California law. Per § 51(f), "[a] violation of the right of any individual under the Americans with Disabilities Act of 1990 ... shall also constitute a violation of this section."

21. The actions and omissions of Defendant as herein alleged constitute a denial of access to and use of the described public facilities by physically disabled persons within the meaning of California Civil Code §§ 51 and 52. As a proximate result of Defendant's action and omissions Defendant has discriminated against Plaintiff in a violation of Civil Code §§ 51 and 51.

## VII.

### **SECOND CAUSE OF ACTION: VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990 (42 USC §§ 12101 *et seq.*)**

22. Plaintiff incorporates the allegations contained in paragraphs 1 through 21 for this claim and incorporates them herein.

23. As part of the Americans with Disabilities Act of 1990 ("ADA"), Congress passed "Title III – Public Accommodations and Services Operated by

1 Private Entities.” 42 U.S.C. § 12181 et seq. The Property is one of the “private  
2 entities” which are considered “public accommodations” for purposes of this title,  
3 which includes any “restaurant, bar, or other sales or rental establishment serving food  
4 or drink.” § 301(7)(B).

5 24. The ADA states that “[n]o individual shall be discriminated against on  
6 the basis of disability in the full and equal enjoyment of the goods, services, facilities,  
7 privileges, advantages, or accommodations of any place of public accommodation by  
8 any person who owns, leases, or leases to, or operates a place of public  
9 accommodation.” 42 U.S.C. § 12182.

10 25. The acts and omissions of Defendant set forth herein were in violation of  
11 Plaintiff’s rights under the ADA and the regulations promulgated thereunder, 28 CFR  
12 Part 36 *et seq.*

13 26. The removal of each of the barriers complained of by Plaintiff as  
14 hereinabove alleged, were at all times herein mentioned “readily achievable” under the  
15 standards §§ 301 and 302 of the ADA. As noted hereinabove, removal of each and  
16 every one of the architectural barriers complained of herein were also required under  
17 California law. Further, on information and belief, alterations, structural repairs or  
18 additions since January 26, 1993 have also independently triggered requirements for  
19 removal of barriers to access for disabled persons per § 303 of the ADA. In the event  
20 that removal of any barrier is found to be “not readily achievable,” Defendant still  
21 violated the ADA, per § 302(b)(2)(A)(v) by failing to provide all goods, services,  
22 privileges, advantages and accommodations through alternative methods that were  
23 readily achievable.

24 27. On information and belief, as of the date of Plaintiff’s encounter at the  
25 Property and as of the filing of this Complaint, the Defendant has denied and  
26 continues to deny full and equal access to Plaintiff and to other disabled persons,  
27 including wheelchair users, in other respects, which violate plaintiff’s rights to full and  
28 equal access and which discriminate against Plaintiff on the basis of his disability,



1 thus wrongfully denying to plaintiff the full and equal enjoyment of the goods,  
2 services, facilities, privileges, advantages and accommodations, in violation of §§ 302  
3 and 303 of the ADA. 42 USC §§ 12182 and 12183.

4 28. On information and belief, Defendant has continued to violate the law  
5 and deny the rights of Plaintiff and other disabled persons to access this public  
6 accommodation since on or before Plaintiff's encounters, as previously noted.  
7 Pursuant to the ADA, § 308, 42 USC 12188 *et seq.*, Plaintiff is entitled to the  
8 remedies and procedures set forth in § 204(a) of the Civil Rights Act of 1964, 42 USC  
9 2000(a)-3(a), as Plaintiff is being subjected to discrimination on the basis of disability  
10 in violation of the ADA or has reasonable grounds for believing that he is about to be  
11 subjected to discrimination. Pursuant to § 308(a)(2), "In cases of violations of § 302(b)  
12 )(2)(A)(iv) and § 303(a) ... injunctive relief shall include an order to alter facilities to  
13 make such facilities readily accessible to and usable by individuals with disabilities to  
14 the extent required by this title."

15 29. Plaintiff seeks relief pursuant to remedies set forth in § 204(a) of the Civil  
16 Rights Act of 1964, 42 USC 2000(a)-3(a), and pursuant to Federal Regulations  
17 adopted to implement the Americans with Disabilities Act of 1990. Plaintiff is a  
18 qualified disabled person for purposes of § 308(a) of the ADA who is being subjected  
19 to discrimination on the basis of disability in violation of Title III and who has  
20 reasonable grounds for believing he will be subjected to such discrimination each time  
21 that he may attempt to use the property and premises.

### 22 PRAYER

23  
24 WHEREFORE, Plaintiff prays that this court award damages and provide relief  
25 as follows:

26 1. Issue a preliminary and permanent injunction directing Defendant as current  
27 owner, operator, lessor, and/or lessee of the property and premises to modify the  
28 above described property and premises and related facilities so that each provides full



1 and equal access to all persons, including but not limited to persons with physical  
2 disabilities who use wheelchairs, and issue a preliminary and permanent injunction  
3 directing Defendant to provide and maintain facilities usable by plaintiff and similarly  
4 situated persons with disabilities, and which provide full and equal access, as required  
5 by law, including appropriate changes in policy;

6 2. Retain jurisdiction over the Defendant until such time as the Court is satisfied  
7 that Defendant's unlawful policies, practices, acts and omissions, and maintenance of  
8 inaccessible public facilities as complained of herein no longer occur, and can not  
9 recur;

10 3. Award to Plaintiff all appropriate damages, including but not limited to  
11 statutory damages, general damages and treble damages in amounts within the  
12 jurisdiction of this Court, all according to proof;

13 4. Award to Plaintiff all reasonable statutory attorney fees, litigation expenses, and  
14 costs of this proceeding as provided by law;

15 5. Award to Plaintiff prejudgment interest pursuant to California Civil 17 Code§  
16 329;

17 6. Grant such other and further relief as this Court may deem just and proper.  
18

19 ASCENSION LAW GROUP, PC

20 DATE: February 26, 2024

21 /s/Pamela Tsao

22 Pamela Tsao, attorney for Plaintiff

23 STEPHEN TURNER  
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